

## Chapter Eight

### Participant Disqualification and Dual Participation

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#### Overview

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<b>Policy</b>	The Arizona WIC Program will implement policies and procedures for the detection of fraud and abuse within the Arizona WIC Program.
<b>Written Agreement</b>	The Arizona WIC Program will have written agreements for the detection and prevention of dual participation.

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#### Definitions

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<b>Abuse</b>	Abuse is to cause harm or to attack with words.
<b>Fraud</b>	Fraud is an intentional misrepresentation of the truth to deceive others for the purpose of acquiring something of value, such as money or WIC benefits. Anything calculated to deceive, whether by a single act or combination, or by the suppression of truth, or by suggestion of what is false, whether it is by a direct lie, silence, look, or gesture. An example of fraud is selling a food instrument, which deceives the WIC program to acquire money.

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#### In This Chapter

This chapter is divided into six (6) sections and six (6) appendices of appropriate forms. It also describes the mechanism for participant disqualification, dual participation, and who is responsible for the actions needed.

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# Chapter Eight

## Participant Disqualification and Dual Participation

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### Section A

#### Participant Disqualification for Program Fraud

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##### Policy

Arizona WIC Program participants shall receive written warning or be disqualified when documentation verifies that participant fraud has occurred.

The State Agency reserves the right to disqualify participants for other actions not listed herein if the participant violates program policies and regulations.

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##### Government Accounting Office (GAO) Definition

Participant Violation: Intentional activities or actions of WIC participants or their Authorized Representatives or proxies taken to obtain benefits to which they are not entitled and/or to misuse benefits they receive. Activities and actions include, but are not limited to:

- Misrepresenting facts that are used to determine eligibility (e.g. income, age of children, existence of children, address, etc.)
- Exchanging food vouchers for non-approved items (e.g., cash, alcohol, or tobacco products, sundries, etc.)
- Selling or giving away food obtained with food instruments
- Participating at more than one WIC agency simultaneously
- Verbally/physically abusing WIC vendors and/or WIC staff

Note: See Appendices D and E for sample forms

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##### Disqualification Without Warning

Serious violations of program integrity, such as selling WIC food instruments, will result in disqualification without any warning.

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#### **Section A**

#### **Participant Disqualification for Program Fraud (Continued)**

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##### **Infant/Child Disqualification**

When the participant being disqualified is an infant or a child, the Authorized Representative is the one to be disqualified. The infant or child can continue to receive benefits and participate during disqualification if another Authorized Representative can be designated. If the Authorized Representative represents multiple infants and/or children, all infants and children can remain on the program under the preceding conditions.

Three (3) documented violations, beyond the warning letter(s), of any combination of the violations listed below will result in a one (1) year disqualification. The three (3) documented violations must be committed within a 12-month period.

If there are less than three (3) combinations of violations with different sanctions, the participant shall receive the maximum sanction.

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## Chapter Eight

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#### Section A

#### Participant Disqualification for Program Fraud (Continued)

<b>VIOLATIONS</b>	<b>NUMBER OF OFFENSES</b>	<b>SANCTIONS</b>
1. Using food instrument(s) before "Date of Issue" or after "Date Valid To"	1 2	Verbal warning Warning letter
2. Failing to sign food instrument(s) at time of purchase	1 2	Verbal warning Warning letter
3. Cashing food instrument(s) reported lost or stolen	1 2 3	Warning letter 30 day disqualification 1 year disqualification
4. Allowing an unauthorized person to use food instrument(s) or ID folder	1 2 3	Warning letter 30 day disqualification and repayment 1 year disqualification and repayment
5. Using food instrument(s) to buy unauthorized food costing \$99 or less (for \$100 or more see #14)	1 2 3	Warning letter and repayment 30 day disqualification and repayment 1 year disqualification and repayment
6. Creating a public nuisance, threatening harm, or disrupting normal activities at the Local Agency or at the store	1 2	30 day disqualification 1 year disqualification
7. Altering food instrument(s)' date, quantity, or type of food	1 2 3	60 day disqualification and repayment 90 day disqualification and repayment 1 year disqualification and repayment
8. False statement or misrepresentation of income, name, residence, family size, medical data, pregnancy, or date of birth to obtain WIC benefits	1 2	90 day disqualification and repayment 1 year disqualification and repayment
9. Exchanging food instrument(s) for credit or non-food items	1	1 year disqualification and repayment

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#### Section A

#### Participant Disqualification for Program Fraud (Continued)

VIOLETIONS	NUMBER OF OFFENSES	SANCTIONS
10. Selling food instrument(s)	1	1 year disqualification and repayment
11. Selling or giving away supplemental food that was purchased with WIC food instrument(s)	1 2	90 day disqualification and repayment 1 year disqualification and repayment
12. Using food instrument(s) at unauthorized stores	1 2	90 day disqualification and repayment 1 year disqualification and repayment
13. Using food instrument(s) to buy unauthorized food equaling \$100 or more	1	1 year disqualification and repayment
14. Stealing food instrument(s)	1	1 year disqualification, repayment, and reported to law enforcement
15. Physically abusing WIC or store staff/property	1	1 year disqualification and reported to law enforcement
16. Dual participation: using food instrument(s) from two programs/agencies in the same month, includes CSFP, ITCA Inc, and Navajo Nation	1	Termination from all but one (1) program and repayment of the dual benefits.
17. Intentional dual participation	1	1 year disqualification from all programs and repayment of all benefits
18. Assessed claim for \$100 or more. A claim is the amount of a repayment.	1	1 year disqualification and repayment
19. Assessed second or subsequent claim for any amount	1	1 year disqualification and repayment

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## **Chapter Eight**

### **Participant Disqualification and Dual Participation**

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#### **Section A**

#### **Participant Disqualification for Program Fraud (Continued)**

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##### **Participants Rights and Responsibilities When Disqualified**

Participants have the right to appeal any denial, claim or disqualification at a fair hearing or an informal settlement conference. Participants shall be provided, within a minimum of 15 calendar days, written notice prior to a disqualification. This is to allow the participant time to request an appeal.

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##### **Exception for Disqualification**

The State Agency may decide not to impose a mandatory disqualification if, within thirty (30) days of receipt of the notice of repayment, full restitution is made or a repayment schedule is agreed upon.

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##### **Reapplication**

A participant may reapply for the Program at the end of a disqualification period or the full repayment of a claim. However, they must meet all eligibility criteria before certification.

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#### Section B

#### Dual Participation Within the Arizona WIC Program

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##### Dual Participation Reports

The State Agency and the Local Agencies (LA) will produce Dual Participation Reports. The purpose of Dual Participation Reports is to detect potential dual participation within the Arizona WIC Program.

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##### State Follow-up Procedure

The State Agency will notify, in writing, the Local Agency(ies) when potential dual participation has occurred.

Participant identifiers will be included in written notification:

- Name
- Address
- Ethnicity
- Gender
- Date of Birth
- Authorized Representative
- Health Assessment
- Birth Information

The State Agency will determine dual participation and will inform Local Agencies of the necessary sanction.

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##### Local Agency Follow-up Procedure

The Local Agency will notify the State Agency, in writing, of any identified possible dual participation within 15 working days of discovery.

When a Local Agency is contacted by the State Agency, the LA will provide, in writing, the requested information.

When dual participation has been determined, the designated LA will impose the appropriate sanction.

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### **Participant Disqualification and Dual Participation**

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#### **Section C**

#### **Dual Participation With Other WIC State Agencies**

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##### **Inter Tribal Council of Arizona, Inc. (ITCA) WIC and Navajo Nation WIC**

ITCA and Navajo Nation WIC Programs will produce a disk record of all active clients within the Agreement designated time period.

The disks will be mailed to the State Agency according to schedule.

A Dual Participation Report that lists all possible dual participants (Arizona WIC/ITCA WIC/Navajo Nation WIC/Arizona CSFP) will be produced and followed up by the State Agency.

The State Agency/ITCA/Navajo Nation will contact the local agencies involved to determine if dual participation has occurred. If no dual participation is found, the report will be signed and dated by the reviewer. The reports will be retained by the State Agency according to the schedule established in Chapter Fourteen (14): Records and Reports.

If dual participation is discovered, the State Agency will coordinate appropriate action with ITCA and/or Navajo Nation.

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##### **State Agencies**

Local Agencies that have factors that make it likely that participants travel regularly between local services located across State agency borders, must discuss dual participation and the consequences when a participant receives benefits from more than one (1) State WIC agency. Examples of likely factors are lack of geographic barriers and common vendors.

If dual participation is discovered, the sanctions in Section A, #16 and #17, are to be followed.

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### **Participant Disqualification and Dual Participation**

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#### **Section D**

#### **Dual Participation with the Commodity Supplemental Food Program (CSFP)**

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Data Submission	Local agencies will enter information in the Arizona In Motion (AIM) system on all persons enrolled in CSFP.
Local Agency Responsibility	<p>Local agencies will investigate all persons who appear on the WIC/CSFP dual participation alert to determine whether or not dual participation is occurring.</p> <p>All cases of suspected dual participation are to be reported in writing to the State Agency within 15 working days.</p>
Note	The follow-up procedures will be the same as found in Section B, Dual Participation Within the Arizona WIC Program.

# Chapter Eight

## Participant Disqualification and Dual Participation

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### Section E

#### Responsibilities

STATE RESPONSIBILITIES	LOCAL AGENCY RESPONSIBILITIES
The State Agency will consult with the Attorney General's Office in cases of alleged fraud and abuse, and if appropriate, the USDA Office of the Inspector General.	The Local Agency will document all allegations of program abuse or fraud on the Arizona WIC <i>Complaint on Participant</i> form (See Appendix F).
The State Agency will coordinate the fraud hotline and information obtained from it.	In all cases where program abuse or fraud is alleged against a participant, the Local Agency shall submit a <i>Complaint on Participant</i> form (See Appendix F) and accompanying documentation to the State Agency.
The State Agency will verify information regarding alleged participant abuse or fraud and retain the documentation.	The Local agencies shall consult with the State Agency prior to taking any action regarding participant abuse or fraud.
Following an investigation, the State Agency will determine participant sanction.	If there is a sanction action, the Local Agency will advise the participant of the program requirement(s) they violated. (What they did wrong and the correct procedure.)
The State Agency will determine the amount of funds improperly received by the participant.	The Local Agency will collect repayments prior to providing benefits. The payments with the completed <i>Repayment of Claim Form</i> (See Appendix A) will be sent to the State Agency.
When an investigation has verified fraud or abuse, the State Agency will send a certified letter to the participant regarding the sanction and, if appropriate, the amount of repayment. A copy of the certified letter will be sent to the Local Agency.	The Local Agency will assist the participant in preparation and submission of their written request for an appeal of a claim and/or a program disqualification. (See Appendices B and C for appeal procedure forms). And, assist the participant with completing a repayment schedule for claims.
The State Agency will inform the participant of their right to appeal a claim or a program disqualification.	The Local Agency will provide the participant with Program benefits (i.e. food package) for a period of fifteen (15) calendar days from the date of the written notification of disqualification if a food package is due at the time.
The State Agency will provide an informal settlement conference and/or a fair hearing.	The Local Agency will provide program benefits to participants, who appeal disqualification within fifteen (15) calendar days of the written notification of disqualification, until the appeal is resolved or the certification periods expires, whichever occurs first.

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#### Section F

#### Claims

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##### Policy

If the State Agency determines that program benefits have been obtained or disposed of improperly as the result of a participant violation, the State Agency will establish a claim against the participant for the full value of the improperly received benefits, in addition to any sanctions.

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##### Procedure

Following an investigation that has determined there was a participant violation, the State Agency will determine the amount of any improperly received benefits.

The State Agency will establish a claim against the participant for the full value of the improperly received benefits.

The State Agency will send the claim by certified mail to the participant and a copy to the Local Agency.

If the participant chooses to appeal the claim, the Local Agency will assist in completing the appeal request.

If the participant chooses a repayment plan for claims, the Local Agency will assist in developing a payment schedule and notify the State Agency of the proposed plan.

If the participant has not paid the State Agency directly within 15 days of the notice, the Local Agency will collect a cashier check or money order, payable to *ADHS Accounting*, before issuing any benefits.

If the Local Agency collects a payment, they will send the cashier checks or money orders to the State Agency with a completed *Repayment of Claim Form* (See Appendix A).

If full payment or a payment schedule has not been established after two (2) letters demanding repayment, the State Agency will not pursue further collection actions under \$500.00. ( The cost of WIC staff time at approximately \$30.00 per hour and the cost of legal services by the State Attorney General at approximately \$87.00 per hour would not make it cost beneficial to pursue any claims under \$500.00) The State Agency will notify the Inter-Tribal Council of Arizona, Inc. and the Navajo Nation WIC Programs of any participant who has an unpaid claim with the Arizona WIC Program.

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## **Chapter Eight**

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#### **Appendix A: Repayment of a Claim form**

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## Arizona WIC Program Repayment of a Claim

Authorized Representative: \_\_\_\_\_

I.D. \_\_\_\_\_

Agency: \_\_\_\_\_ Clinic: \_\_\_\_\_

This is to notify you that because you have broken the following WIC regulation(s) and improperly received or disposed of WIC benefits, you must repay the WIC Program the value of those improperly received or disposed of benefits.

### WIC VIOLATION:

You must repay the WIC Program: \$

**You may pay this amount in a lump sum or through a payment plan. If you choose to do a payment plan, ask the clinic to help you with the payment plan.**

You must send, within 15 days of this notice, to the following address, a cashier check or money order made payable to **ADHS Accounting** or return to the above clinic to make arrangements for a repayment schedule within 15 days of this notice.

Program Integrity Manager  
Office of Chronic Disease Prevention and Nutrition Services  
150 North 18<sup>th</sup> Avenue, Suite 310  
Phoenix, AZ 85007-3242

**If you do not agree with this claim for repayment, you may ask for an appeal process (see attached) within 60 days from the date on this letter.**

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.**

**To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.**

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#### **Appendix B: Appeal Procedures – Disqualifications**

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# **Arizona WIC Program Appeal Procedures Disqualifications**

**If you do not agree with this decision and wish to appeal, your appeal request must be submitted in writing, within twenty (20) calendar days for an informal settlement conference or sixty (60) calendar days for a fair hearing of receiving this notice. The request must include the facts you believe entitle you to relief, and the relief sought.**

An **INFORMAL SETTLEMENT CONFERENCE** is an informal meeting between you, the Local Agency Director, the Local Agency staff involved and a State Agency representative, who will preside over the meeting. A decision is made at the end of the meeting. You have the right to request an informal settlement conference. If you request an informal settlement conference, the agency shall notify you at least fifteen (15) calendar days before the conference, after having received the request. The notice will explain the informal conference location, time and procedures. This request must be post-marked or hand-delivered to the Local Agency Director no later than twenty (20) calendar days from the date of receipt of this notice. Local Agency staff may assist you in filing your request in writing

**To request an Informal Settlement Conference**, submit the request in writing to:

**WIC Director  
150 North 18<sup>th</sup> Avenue, Suite 310  
Phoenix, AZ 85007**

**or hand deliver to Local Agency WIC Director who will immediately forward to the WIC Director.**

If you do not wish to request an informal settlement conference, you may request a **FAIR HEARING**. A fair hearing may, also, be requested when a participant/authorized representative disagrees with the decision of informal settlement conference. A fair hearing is an administrative hearing before an administrative law judge, and a decision is made within the forty five (45) calendar days following the initial request for the hearing. You have sixty (60) calendar days, from the date of receipt of this notice to post-mark or hand-deliver a written request for a fair hearing. The request must contain a statement of facts, the reasons you believe you are entitled to a fair hearing, and the relief sought. Local Agency staff may assist you in filing your request in writing

At a fair hearing, you have the right to self-representation or to be represented by a relative, friend, legal counsel or other spokesperson. You have the right to bring witnesses. The participant is entitled to introduce arguments, question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses as well as submit evidence to support their case.

**To request a Fair Hearing**, submit your request in writing to:

**Clerk of the Department  
Arizona Department of Health Services  
150 North 18<sup>th</sup> Avenue, Suite 500  
Phoenix, AZ 85007**

If you choose to appeal, you will receive Program benefits, if you file your appeal within fifteen (15) calendar days from receipt of this notice, during the appeal process until the hearing officer reaches a decision or the certification period ends whichever comes first.

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#### **Appendix C: Appeal Procedures – Claim for Repayment**

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# **Arizona WIC Program Appeal Procedures Claim for Repayment**

**If you do not agree with this decision and wish to appeal, your appeal request must be submitted in writing, within twenty (20) calendar days for an informal settlement conference or sixty (60) calendar days for a fair hearing of receiving this notice. The request must include the facts you believe entitle you to relief, and the relief sought.**

An **INFORMAL SETTLEMENT CONFERENCE** is an informal meeting between you, the Local Agency Director, the Local Agency staff involved and a State Agency representative, who will preside over the meeting. A decision is made at the end of the meeting. You have the right to request an informal settlement conference. If you request an informal settlement conference, the agency shall notify you at least fifteen (15) calendar days before the conference, after having received the request. The notice will explain the informal conference location, time and procedures. This request must be post-marked or hand-delivered to the Local Agency Director no later than twenty (20) calendar days from the date of receipt of this notice. Local Agency staff may assist you in filing your request in writing

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150 North 18<sup>th</sup> Avenue, Suite 310  
Phoenix, AZ 85007**

**or hand deliver to Local Agency WIC Director who will immediately forward to the WIC Director.**

If you do not wish to request an informal settlement conference, you may request a **FAIR HEARING**. A fair hearing may, also, be requested when a participant/authorized representative disagrees with the decision of informal settlement conference. A fair hearing is an administrative hearing before an administrative law judge, and a decision is made within the forty five (45) calendar days following the initial request for the hearing. You have sixty (60) calendar days, from the date of receipt of this notice to post-mark or hand-deliver a written request for a fair hearing. The request must contain a statement of facts, the reasons you believe you are entitled to a fair hearing, and the relief sought. Local Agency staff may assist you in filing your request in writing

At a fair hearing, you have the right to self-representation or to be represented by a relative, friend, legal counsel or other spokesperson. You have the right to bring witnesses. The participant is entitled to introduce arguments, question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses as well as submit evidence to support their case.

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Arizona Department of Health Services  
150 North 18<sup>th</sup> Avenue, Suite 500  
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If you choose to appeal, you will receive Program benefits, if you file your appeal within fifteen (15) calendar days from receipt of this notice, during the appeal process until the hearing officer reaches a decision or the certification period ends whichever comes first.

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#### **Appendix D: Program Violation Warning**

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## Arizona WIC Program Program Violation Warning

**Participant:** \_\_\_\_\_ **I. D. Number:** \_\_\_\_\_

**Agency:** \_\_\_\_\_ **Clinic:** \_\_\_\_\_

This is a warning notice that you have violated the following WIC Program regulation(s):

### **WIC VIOLATION:**

**If you break this regulation again the result will be:**

Three violations of any one regulation or a combination of regulations within a 12-month period will result in disqualification (not being able to receive the benefits of the WIC Program) and making repayments. If you have a combination of violations with different penalties, you will be subject to the maximum penalty.

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

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#### **Appendix E: Program Disqualification**

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## Arizona WIC Program Program Disqualification

Local Agency: \_\_\_\_\_ Clinic: \_\_\_\_\_

Authorized Representative: \_\_\_\_\_ I.D. Number: \_\_\_\_\_

Participant(s) Name: \_\_\_\_\_ I.D. Number: \_\_\_\_\_

This is to notify you that because you have broken the following WIC rule(s), you are being disqualified from the Arizona WIC Program beginning on \_\_\_\_\_ and ending on \_\_\_\_\_. At the end of this disqualification period, you may reapply to become a WIC participant and/or Authorized Representative again.

### WIC VIOLATION:

Another person may become the authorized representative for the infant(s) and/or child(ren) participant(s), and they will be allowed to remain on the program through the disqualification period. Contact the above clinic if you want to have an authorized representative replacement for your infant/children participant(s).

**If you do not agree with this disqualification**, you may ask for an appeal process (see attached) **within 60 days from the date on this letter**. If you request an Informal Settlement Conference and/or a Fair Hearing **within 15 days of this date**, you may receive WIC benefits until a decision is made or the certification period ends, whichever happens first. If you continue to receive benefits and the appeal process confirms the disqualification, the disqualification time will begin when your benefits are stopped.

\_\_\_\_\_  
Nutrition Programs Manager

\_\_\_\_\_  
Date

**In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.**

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#### **Appendix F: Complaint on Participant**

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## ARIZONA WIC PROGRAM COMPLAINT ON PARTICIPANT

Local Agency/Clinic: \_\_\_\_\_ Date: \_\_\_\_\_

Person/Title (completing form): \_\_\_\_\_

Complainant: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_

☐ Complainant desires to remain anonymous, but provided their name.

☐ Complainant did not give their name.

Circle one:    Phone                      Mail                      E-mail                      In person                      DES Hotline

### COMPLAINT

Participant: \_\_\_\_\_ Participant ID #: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Details of complaint (Report of Investigation on page 2):

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[illegible]

Signature and Title